

No. 9/4/87-6Lab./7210.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of
(1) Controller, Haryana Roadways, Chandigarh
(2) General Manager, Haryana Roadways, Gurgaon.

BEFORE SHRI S. B. AHUJA,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 218/1986

between

SHRI VIKRAM SINGH, SON OF SHRI
HARDWARI LAL, V. & P.O. JAMALPUR DIS-
TRICT GURGAON, AND THE MANAGEMENT
OF (1) CONTROLLER, HARYANA ROAD-
WAYS, CHANDIGARH (2) GENERAL MANA-
GER, HARYANA ROADWAYS, GURGAON

Present :

Shri P. R. Yadav, Authorised Representative
for the workman.

None for the management.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Vikram Singh, workman and the management of Controller, Haryana Roadways, Chandigarh and (2) General Manager, Haryana Roadways, Gurgaon to this Tribunal for adjudication :—

Whether the termination of services of Shri Vikram Singh, Ticket Verifier, is justified and in order ? If not, to what relief is he entitled ?

2. On notices being given, the parties appeared.

3. The petitioner's case is that he was appointed as Helper on 17th July, 1985 in Haryana Roadways, Gurgaon. Later on he was appointed as Ticket Verifier with effect from 1st January, 1986 without any break in service. He

worked continuously but his services were illegally terminated by the respondent on 19th July, 1986 without assigning any reason. He has challenged the order of termination of his service being illegal and in utter disregard of the provisions of Section 25-F of the Industrial Disputes Act, 1947. He has prayed for reinstatement with full back wages.

4. The respondent contested the case of the petitioner. It was pleaded that the petitioner was appointed on daily wages from time to time and lastly his appointment was for the period from 1st July, 1986 to 19th July, 1986. His services automatically came to an end on 19th July, 1986 on the expiry of contractual period. It was pleaded that the petitioner has worked for less than 240 days in the depot and as such he is not entitled to any relief.

5. On the pleadings of the parties, the following issue was settled :—

(1) Whether the termination of services of Shri Vikram Singh, Ticket Verifier, is justified and in order ? If not, to what relief is he entitled ?

6. Subsequently none appeared on behalf of the respondent and *ex parte* proceedings were ordered against the respondent on 27th May, 1987.

7. I have heard Shri P. R. Yadav, Authorised Representative for the workman and perused the record on the file. My findings on the aforesaid issue is as under :—

ISSUE NO. 1:

8. In support of his case, the workman Vikram Singh has appeared as WW-1. He has supported his case on oath by deposing that initially he was appointed as Helper on 18th July, 1985 and then Ticket Verifier with effect from 1st January, 1986. He stated that his services were terminated on 19th July, 1986 and his last drawn wages were Rs. 550 per month. He deposed that no retrenchment compensation was paid to him at the time of termination of his service though he had worked continuously for a year with the respondent. He also stated that persons junior to him were retained and that after termination of his services two new persons have been appointed. There are no reasons to disbelieve his testimony particularly

when the respondent has not come forward to rebut the same.

9. It is fully established from the *ex parte* evidence that the petitioner has worked for more than 240 days with the respondent prior to the date of termination of his service. His services could not be dispensed with without complying mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947. Admittedly no retrenchment compensation as envisaged under Section 25-F of the Industrial Disputes Act, 1947 was paid to him at the time of retrenchment. Termination of service by the employer for whatsoever reason constitutes retrenchment under Section 2(oo) of the Industrial Disputes Act, 1947.

10. As already discussed above the services of the petitioner have been terminated in contravention of the provisions of Section 25-F of the Industrial Disputes Act, 1947 which renders the termination order void *abinitio*. In the result I hold that the termination of services of Vikram Singh petitioner is neither justified nor in order. He is ordered to be reinstated with full back wages and continuity of service. An *ex parte* award is passed in favour of the workman. No order as to cost.

The 21st July, 1987.

S. B. AHUJA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 936(A), dated 31st July, 1987.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9/4/87-6Lab./7211.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the

following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and management of M/s. Sant Auto Industries, 246/24, Faridabad.

BEFORE SHRI S. B. AHUJA,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 180/1986

between

SHRI RAGHUNATH, SON OF SHRI BIDEEBI
RAM, AMADKER CHOWK, SHANTRA DEVI,
WARD NO. 9, BALLABGARH, FARIDABAD
AND THE MANAGEMENT OF SANT AUTO
INDUSTRIES, 246/24, FARIDABAD

Present:

Shri Jawahar Lal, Authorised Representative
for the workman.

None for the management.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following Dispute between Shri Raghunath, workman and the management of M/s Sant Auto Industries, 246/24, Faridabad, to this Tribunal for adjudication:—

Whether the termination of service of Shri Raghunath was justified and in order? If not, to what relief is he entitled?

2. On notices being given, the parties appeared.

3. The Petitioner's case is that he was working in the respondent company for the last four years as Around Operator. His last drawn wages were Rs. 600 per month. He alleged that his services were abruptly terminated on 31st May, 1986 without any notice. He challenged the order of termination of his service being illegal and in utter disregard of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). He has now prayed for reinstatement with continuity of service and with full back wages.

4. The respondent controverted the claim of the petitioner. It was pleaded that the claimant was never employed by the respondent and there did not exist any relationship of employer and employee between the parties. The unit came into existence in November, 1983 and Company has since been closed on 31st May, 1986 and the Proprietor had sold the Unit.

5. The petitioner filed rejoinder wherein he reiterated his stand.

6. On the pleadings of the parties, the following issues were settled :—

- (1) Whether there is no relationship of employer and employee between the parties ? OPM.
- (2) Whether the reference is bad in law? OPM.
- (3) Whether there does not exist any Industrial Dispute between the parties ? OPM.
- (4) Whether the respondent Company has been closed on 31st May, 1986 as alleged ? OPM.
- (5) Whether the termination of service of Shri Raghunath was justified and in order ? If not, to what relief is he entitled?

7. Subsequently, the respondent and their authorised representative did not put in appearance and *ex parte* proceedings were ordered against the management on 2nd June, 1987.

8. The petitioner stepped in the witness box and also produced documents, Exhibit W-1 and W-2 in support of his case.

9. I have heard Shri Jawahar Lal, Authorised Representative for the workman and perused the records. My findings on the aforesaid issues are as under :—

ISSUES NO. 1, 4 and 5:

10. All these issues are interconnected and would be discussed together.

11. Raghunath WW-1, the petitioner has supported his case on oath by deposing that he was employed by the respondent-management four years back and that his services were illegally terminated on 31st May, 1986. He testified that no notice or retrenchment compensation

was paid to him. He also stated that the respondent factory was still running and has not been closed. He produced Exhibit W-1 the copy of the bill signed by him showing that he had worked in the respondent Company. There are no reasons to disbelieve the sworn testimony of Raghunath particularly when the evidence goes unrebutted on the record.

12. It is amply established by *ex parte* evidence led by the petitioner that he had been in continuous service for more than one year under the employer and that his services were terminated without complying with mandatory provisions of Section 25-F of the Act because no notice was ever given to him and no retrenchment compensation was paid to him. The termination of his services clearly amounts to retrenchment as defined in Section 2(oo) of the Act.

13. As pre-requisite for valid retrenchment as laid down in Section 25-F of the Act had not been complied with, the retrenchment bringing about termination of services is void *ab initio*, invalid and inoperative. The respondent Company is still running and as such the respondent Company cannot avoid his liability. Consequently these issues are decided against the respondent.

ISSUES NO. 2 AND 3:

14. The termination of service of an individual workman is now deemed as an industrial dispute between the workman and the employer under Section 2-A of the Act. Thus the reference is proper and both these issues are answered against the respondent.

15. In the result, the reference succeeds. The petitioner is ordered to be reinstated with full back wages and with benefit of continuity of service. An *ex parte* award is passed in favour of the workman. No order as to cost. The 30th July, 1987.

S. B. AHUJA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 942(dated 31st July, 1987.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.
The 30th July, 1987.

S. B. AHUJA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.